

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

Corydon Carlton, Plaintiff's

-against-

C.O. Pearson, in his individual
capacity. Prison Guard and Employee
at Wende Correctional Facility. P.O.
Box-1187 (3622 Wende Road) Alden,
New York. 14004-1187

Defendant.

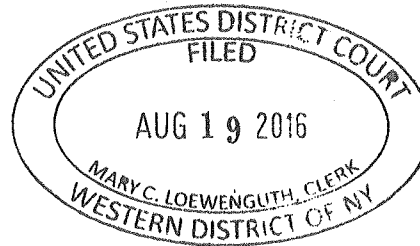
CASE NO#.

16-CV-680 W

COMPLAINT, CIVIL RIGHTS ACTION

PURSUANT TO (42 U.S.C.SEC. 1983)

TRIAL BY JURY



Plaintiff's in the above Caption Action Allege's as follows:
and Plaintiff Carlton, demand a Trial by jury.

JURISDICTION

This is A Civil Rights Action Seeking Relief, damage's and to
Defend, Protect, and are Guaranteed Rights of the State of New York.
In the United States, this action is brought Pursuant to the Civil
Rights Acts. (Section 42 U.S.C. 1983) and this Court has Jurisdiction
over this action/matter Pursuant to Section 28 U.S.C. 1331, 1343(3)
and (4) and 2201, in the County of Buffalo, New York. 14202-3328.

PARTIES

- 1). Plaintiff Corydon Carlton, was at Wende Correctional Facility.
P.O. Box-1187. (3622 Wende Road) Alden, N.Y. 14004-1187.
- 2). A. Defendant: C.O. Pearson, Prison Guard and Employee at the
Wende Correctional Facility. P.O. Box-1187. (3622 Wende Road)
Alden, New York. 14004-1187.

PAGE TWO

BRIEF STATEMENT OF FACTS

3). On March 11, 2014, located at Wende Correctional Facility. At Approximately 7:00 P.M. Plaintiff's was housed in the Mental Health Program Call: I.I.C.P. Program Unit-Call- Number (MHU-C-8.) The Defendant: C.O. Pearson, opened cell doors for Commissary, and also inmate (Goring-02-A-2252) to enter Plaintiff's cell location and attack, assault and beat, and injured the said Plaintiff Corydon Carlton,

4). Plaintiff's step out his cell location on to gallery briefly, to see why his cell door had open, and were told Commissary. So Plaintiff Carlton, had informed the Officer in the Bobble that he needed to get his net-bag for commissary. And when, out of nowhere a inmate in 9-cell. Violently shoved Plaintiff's into his cell and assaulted plaintiff's with repeated punches to his face, and once Plaintiff's knocked out on unconscious 10 or more second, became conscious and aware what had happen, and saw inmate (Goring-02-A-2252, from 9-cell) standing over Plaintiff's, begin yelling, (you white mother-fucking-cracker) you got this ass-kicking coming to you!. You mother-fucker.

5). Plaintiff's try to yelling-out-loud-for assistance and help, which was in possible and useless, and over comed with more repeated punches to the face and body, as the cell door closed, trapping Plaintiff's in his cell, he couldn't move, while inmate (Goring-02-A-2252) from 9-cell, continue to beat Plaintiff Corydon Carlton, for about 30 or 35 minutes, without any help. And as a result of this incident, was bleeding profoundly from his broken nose and left eye, and injuries.

PAGE THREE

6). Plaintiff's try hard warding his attacker, and became powerless over the punches to his face and injuries to his nose and left eye, before C.O. Pearson, return from Commissary with the rest of the company. Officer Pearson, realized someone was yelling for help. Out of cell-8, and C.O. Pearson, saw inmate (Goring-02-A-2252, from cell-9) assaulting and beating the Plaintiff Corydon Carlton, to death, before telling this inmate, are you done.

7). Plaintiff's door open, he told the inmate (Goring-02-A-2252) to come out, and lock in his cell, then Plaintiff's walk out bleeding profoundly and badly from his face and nose. Officer Pearson, told the Plaintiff's to go the Facility Clinic with a pass and without being escorted by staff employees.

8). The staff nurse on duty asked Plaintiff's what's had happen, Plaintiff Carlton, begin to explain, and said that he was assaulted, beaten and injured by inmate (Goring-02-A-2252) with repeated punches to face and body, while he was trap and lock his cell location (MHU-C-8) for 30 minutes, without any help and assistance from Officer Pearson. And due to Plaintiff's serious injuries, the staff nurse on duty deemed it necessary for Plaintiff's to see Doctor in Erie County Medical Center. Plaintiff Corydon Carlton, left eye and nose was bleeding profoundly due his injuries, and assault by inmate (Goring-02-A-2252) and the defendant; C.O. Pearson, a prison guard and Employee at the Wende Correctional Facility. And Defendant: C.O. Pearson, did nothing to prevent this from happening to Plaintiff's, which clearly shows this was done intentionally, to cause Plaintiff Carlton, serious harm, pain and suffering and injuries to Plaintiff's left eye and nose, and other injury

PAGE FOUR

9). The defendant: C.O. Pearson, Prison Guard Acted under "color of law", and violated United States Constitutional Rights, Deliberate Indifference and Plaintiff's should be free from assaults and injuries coming from other inmates, and Cruel and Unusual Punishment. In violation of the Eighth Amendment. U.S. Const.

A. directly participating in the wrong; and knowing about the wrong and doing nothing to preventing this from happening or to fix it, when it is a duty to do so; failing to oversee the people who is causing the wrong, such as not reporting the incident.

B. and or liring about the incident and help creating a policy or custom that allow the wrong doing and to happening it to exist.

10). The defendant: C.O. Pearson, reckless dis-regards for the Plaintiff to be Free from other assaults, attacks, beatten and injuries from other inmates and by the hands of inmate (Goring-02-A-2252) who lock in (MHU-C-9), and the defendant: C.O. Pearson, deliberate indifference and negligence as well as for his action.

AND AS FOR A FIRST CAUSE OF ACTION: plaintiff's RE-ALLEGED FROM ONE THROUGH TEN AS FOLLOWS;

11). That the defendant: C.O. Pearson, who is a Prison Guard and a Employee at Wende Correctional Facility. On March 11, 2014, should had known that a routine of Extraordinary incident of violence by inmate (Goring-02-A-2252) who is in (MHU-C-9) has been frequent the premises at Wende Correctional Facility.

PAGE FIVE

12). That at all times herein mentioned one inmate (Goring-02-A-2252) who is in MHU-C-9, was an inmate upon the said premises at Wende Correctional Facility. Doing 25 years to life, in prison.

13). That at all times herein mentioned, it was the duty of the said defendant: C.O. Pearson, their servants, agents and/or Employees to prevent said routine of Extraordinary violence by inmates upon the premises at Wende Correctional Facility.

14). That on March 11, 2014, and for a period of time prior thereto, the Plaintiff's was an inmate at Wende Correctional Facility. And the Plaintiff Corydon Carlton, was lawfully present upon the premises of Wende Correctional Facility. On March 11, 2014, and the Plaintiff's was caused to be injured while being present upon the premises at Wende Correctional Facility. Plaintiff's was caused to be attacked by inmate (Goring-02-A-2252) who was in MHU-C-9), who assaulted, beaten and injured Plaintiff Carlton, upon the said premises at Wende Correctional Facility.

15). The Plaintiff's was subjugated to Physical Injuries, Attacked, Assaulted, Beaten by inmate (Goring-02-A-2252) with deliberate indifference to the Plaintiff's by the said defendant: C.O. Pearson, their servants, agents and Employees at the Wende Correctional Facility. And the defendants failed to provide for the safety, security and protection of the Plaintiff's, an inmates at Wende Correctional Facility.

16). The defendant: C.O. Pearson, failed to prevent the incidents of Extraordinary violence by inmates who are upon the premises known at Wende Correctional Facility. on March 11, 2014, the Plaintiff's was caused to be injured as a result of the carelessness, gross negligence, lack of Supervision, excessive, unnecessary and unreasonable use of force and wanton and willful disregard, deliberate indifference and failure to pro-

PAGE SIX

tect on the part of the defendant: C.O. Pearson, who is Prison Guard and Employeeed. At Wende Correctional Facility. P.O. Box-1187. (3622 Wende Road) Alden, New York. 14004-1187.

17). That by reason of all of the foregoing, the Plaintiff's was injured. That occurrence and the resulting injuries to the Plaintiff Corydon Carlton, were caused solely by reason of the carelessness, cause or provocation on the part of the defendant: C.O. Pearson, contributing thereto.

18). That by reason of the foregoing, this Plaintiff's was severely injured and damaged, rendered sick, sore, lame and disabled, sustained severe neruous shock and mental anguish, physical pain and emotional upset and suffered, some of his injuries are permanent in nature and duration, and Plaintiff's will be permanently caused to suffer pain, inconvenience and other effects of such injuries; Plaintiff's incurred and in the future will necessarily incur further hospital and medical expenses in an effort to be cured of said injuries and Plaintiff Corydon Carlton, will sue the defendant; C.O. Pearson, in his individual capacity under (color of law) for the injuries to his left eye and broker nose, and cruel and unsual punishment. And Violation of eighth Amendment. U.S. Const. In the amount of Five Million Dollars, Compensatory Damages, to Compensate Plaintiff's for the serious injuries, pain, harm, suffering and as will as for Punitive Damages in the amount of \$100,000.00 Thousand Dollars for the mental auguish he suffered by the hands of the defendant: C.O. Pearson, and the above inmate (Goring-02-A-2252). who had assaulted, beaten and injured Plaintiff's.

PAGE SEVEN

AS AND FOR A SECOND CAUSE OF ACTION: PLAINTIFF'S RE-ALLEGED
FROM ONE THROUGH TEN AS FOLLOWS:

19). That the Plaintiff's repeats, reiterates and realleges each and every allegation as contained in the First Cause of Action of the Complaint from 1 through 10, with the same force and effect as though each were more fully set Forth at length herein.

20). That on March 11, 2014, the Plaintiff's was violently, wantonly, brutaaally, savagely, intentionally, maliciously, illegally, repeatedly and relentlessly attacked, assaulted, beaten, battered and continued to be assaulted by the said inmate (Goring-02-A-2252) who was in (MHU-C-9) while he was present in side the Plaintiff Corydon Carlton, cell-MHU-C-8) and on ~~premises~~ at Wende Correctional Facility. Without cause or provocation on the part of the Plaintiff's contributing thereto.

21). That by reason of all of the foregoing, the Plaintiff's was injured, for the foregoing occurrence, and the resulting injuries to the Plaintiff's were caused solely by reason of the carelessness, gross negligence, lack of Supervision, security, protection, deliberate indifference and culpable and wanton acts on the part of the defendant: C.O. Pearson, and without any negligence, cause or provocation on the part of the Plaintiff's contributing thereto. And,

AS AND FOR A THIRD CAUSE OF ACTION: Plaintiff's RE-ALLEGED
FROM ONE THROUGH TEN AS FOLLOWS;

22). That the Plaintiff's repeats, reiterates and realleges each and every allegation as cotained in the First and Second Causes of Action of the Complaint from 1 through ten, with the same force and effect as

PAGE EIGHTH

though each were more fully Set Forth at length herein.

23). That this is action to redress the deprivation under "color of law", statute, ordinance, regulation, custom or usage of a right, privilege and immunity secured to the Plaintiff's by the First, Eighth and Fourteenth Amendment of the United States Constitutions of the State of New York (42 U.S.C. Sec. 1983) and arising under the law and statutes of the State of New York.

24). That all of the foregoing acts and conduct on the part of the defendant: C.O. Pearson, ~~prisoner~~ guard and Employee at the Wende Correctional Facility. P.O. Box-1187. (3622 Wende Road) Alden, N.Y. 14004-1187. And under the authority of their Office as Officer of the State of New York.

25). Plaintiff's has Exhausted all Administrative Remedies, Grievance Complaint- I.G.R.C. And Appeals to the Superintendent and Commissioner/I.G. Inspector General Office, Albany, New York. 12226-2050, and in -addition Plaintiff's has talked with his Mental Health Counselor - and Social Worker Mr. Koston, and the Unit Chief Clinical Coordinator Ms. Lisson, Who had also written complaints about Defendant: Officer C.O. Pearson, See Attached Exhibits-A-B-C-D.

26). That by the foregoing reason above, Plaintiff's will sue the defendant: C.O. Pearson, in the mount of Five Million Dollars Compensatory Damages and to Compensate the Plaintiff Carlton, for his serious injuries to his left eye, and broker nose, pain, harm, suffering and as well as as for Punitive Damages, in the amount of \$100,000.00 Thousand Dollars for the mental anguish he suffered.

PAGE NINE

WHEREFORE, Plaintiff's respectfully pray his relief is granted.
And Further more as the Court deem just and proper.

Dated: July 18, 2016

Sullivan Correctional Facility
P.O. Box-116
Fallsburg, N.Y. 12733-0116

CC:

I declare under penalty of perjury that the foregoing is true
and correct:

Respectfully Submitted,

A handwritten signature in cursive script, appearing to read "Corydon Carlton", is written over a horizontal line.

CORYDON CARLTON, 12-A-1363

Corydon Carlton

Date 4-3-14

Din # 12-A-1363

Location: MH-2-CØ8

Request: I am asking for an exception to the 21 day filing deadline from when the Assault happened. on March 11th When ticket was issued today is the 21st day please take this letter into consideration

I did file a Grievance on March 13th 2014 and never got a response back.

Also inclosed is a written Grievance. I would like to submite.

Sincerely,

Corydon Carlton
Corydon Carlton

(49)

Assaulted
in cell

WDE-39064-14

Grievance

Date 4-3-14

Wende Correctional Facility

Corydon Carlton

Din # 12-A-1363

Location: MH-2-C08

Grievance:


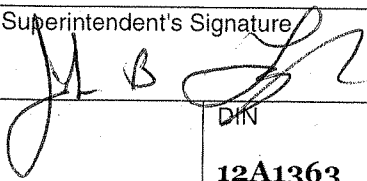
On March 11th 2014 at 7:00pm I was Assaulted by Inmate Goring 02A2252 in the process of being Assaulted officer Pearson closed my cell door where I was being Assaulted by Inmate Goring 02A2252 and Sustained injuries to my face and body in which led me to a trip to the emergency room at ECMC with a broken nose and messed up eye and Contusion on my face and ribs (Photo where taken).

Actions Requested,

to file a report that officer Pearson locked Inmate Goring in my cell

And would like to Exhaust all (APPEALS) and forward this Grievance to (CORG)

Thank you
Corydon Carlton

 <p>STATE OF NEW YORK DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION</p> <p>INMATE GRIEVANCE PROGRAM</p> <p>SUPERINTENDENT</p>	Grievance No. #WDE-39064-14	Date Filed 4/8/14
	Facility Wende	Policy Designation Institutional
	Title of Grievance Assaulted in Cell	Class Code #49
	Superintendent's Signature 	Date 4/14/14
Grievant CARLTON, C.	DIN 12A1363	Housing Unit MH-2-CO8

This grievance has been investigated by a Sergeant and includes interviews with the grievant and his witness and a written response from the officer named in the complaint.

During the interview, the grievant stated that he had nothing further to add to his written grievance. The grievant's witness stated he was not locked in the cell during the fight.

The Officer states that the fight happened when the commissary was let out, he denied locking the inmates in the cell to fight.

The Sergeant states that he finds no merit to this grievance. He believes the inmate is using insidious means to benefit financially from the state.

The evidence provided to this Reviewer does not substantiate a grievance of harassment against staff.


4/15/14

APPEAL STATEMENT

If you wish to refer the above decision of the Superintendent, please sign below and return this copy to your Inmate Grievance Clerk. You have seven (7) working days from receipt of this notice to file your appeal. Please state why you are appealing this decision to C.O.R.C.

Grievant's Signature

Date

Grievance Clerk's Signature

Date

STATE OF NEW YORK
DEPARTMENT OF CORRECTIONAL SERVICES


TO: *Carlton, C 12A 1363 m 14-2-C-08*
FROM: IGRC
DATE: *8/18/14*
RE: HARASSMENT GRIEVANCE - WDE-

WDE-39064-14

YOUR GRIEVANCE WAS RECEIVED AND SENT DIRECTLY TO THE SUPT. THEREFORE, YOU
WILL NOT RECEIVE AN IGRC HEARING ON THIS MATTER.
THE SUPT. HAS 25 DAYS TO RESPOND.

Wende
Correctional Facility

INMATE MISBEHAVIOR REPORT ♦ INFORME DE MAL COMPORTAMIENTO DEL RECLUSO

1. NAME OF INMATE (Last, First) ♦ NOMBRE DEL RECLUSO (Apellido, Nombre) Carlton, Corydon	NO. ♦ NÚM. 12A1363	HOUSING LOCATION ♦ CELDA MHU C-8
2. LOCATION OF INCIDENT ♦ LUGAR DEL INCIDENTE MHU C wing	INCIDENT DATE ♦ FECHA 3/11/14	INCIDENT TIME ♦ HORA approx 7:06 pm
3. RULE VIOLATION(S) ♦ VIOLACIÓN/ES 100.13 fighting 104.11 VIOLENT CONDUCT		
4. DESCRIPTION OF INCIDENT ♦ DESCRIPCIÓN DEL INCIDENTE On the above date and time I CO. Pearson observed Inmate GORWING running into Inmate Carlton #12A1363 cell when the commissary was broken out, at that point I ran down to 8 cell and saw Inmate Carlton and Inmate GORWING exchanging punches to the face and body areas of each other. Both inmates were order to stop they complied Both were pat-fisk and seen by medical with no further problem.		
REPORT DATE ♦ FECHA 3/11/14	REPORTED BY ♦ NOMBRE DE LA PERSONA QUE HACE EL INFORME B. Pearson	SIGNATURE ♦ FIRMA 
5. ENDORSEMENTS OF OTHER EMPLOYEE WITNESSES (if any) ENDOSOS DE OTROS EMPLEADOS TESTIGOS (si hay)		TITLE ♦ TÍTULO Correction Officer
SIGNATURES: FIRMAS 1. _____ 2. _____ 3. _____		

NOTE: Fold back Page 2 on dotted line before completing below.

DATE AND TIME SERVED UPON INMATE
FECHA Y HORA DADO AL RECLUSONAME AND TITLE OF SERVER
NOMBRE Y TÍTULO DEL QUE ENTREGA

You are hereby advised that no statement made by you in response to the charges or information derived therefrom may be used against you in a criminal proceeding. Por este medio se le informa que no se puede usar ninguna declaración hecha por usted como respuesta al cargo o la información derivada de ella en una demanda criminal.

NOTICE ♦ AVISO

REVIEWING OFFICER (DETACH BELOW STATEMENT FOR VIOLATION HEARING ONLY)

You are hereby notified that the above report is a formal charge and will be considered and determined at a hearing to be held.
Por este medio se le notifica que el informe anterior es un cargo formal el cual se considerará y determinará en una audiencia a celebrarse.

The inmate shall be permitted to call witnesses provided that so doing does not jeopardize institutional safety or correctional goals.
Se le permitirá al recluso llamar testigos con tal de que al hacerlo no pondrá en peligro la seguridad de la institución o los objetivos del Departamento.

If restricted pending a hearing for this misbehavior report, you may write to the Deputy Superintendent for Security or his/her designee prior to the hearing to make a statement on the need for continued prehearing confinement.
Si está restringido pendiente a una audiencia por este informe de mal comportamiento, puede escribirle al Diputado del Superintendente para Seguridad o su representante antes de la audiencia para que haga una declaración acerca de la necesidad de continuar bajo confinamiento, previo a la audiencia.

Dist: WHITE - Disciplinary Office. CANARY - Inmate (After review)



BRIAN FISCHER
COMMISSIONER

STATE OF NEW YORK
DEPARTMENT OF CORRECTIONAL SERVICES
THE HARRIMAN STATE CAMPUS - BUILDING 2
1220 WASHINGTON AVENUE
ALBANY, N.Y. 12226-2050

MEMORANDUM

FROM: Karen Bellamy, Director, Inmate Grievance Program
SUBJ: Receipt of Appeal

C CARLTON 12A1363 7/9/2014
Wende Correctional Facility
Your grievance WDE-39064-14 entitled
Assaulted In Cell
was rec'd by CORC on 4/23/2014

Wende
10-1-3

A disposition will be sent to you after the grievance is reviewed by CORC

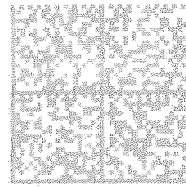
Corydon Carlton Din # 12A1363
Sullivan Correctional Facility
P.O. Box 116
Fallsburg, New York 12733-0116



United
200 U.S.
2 Niagara
Buffalo

Legal mail

SULLIVAN CORR. F.C.



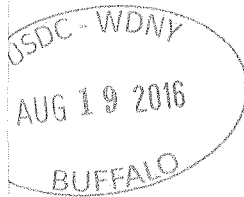
049J82025188

\$01.360

08/17/2016

Mailed From 12733
US POSTAGE

SC.



States District Court Clerk
Courthouse
a Square
New York 14202-3498